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INFORMATION BULLETIN

December 18, 2015 **2015-8**

CHANGES TO VARIOUS MEASURES CONCERNING INDIVIDUALS OR BUSINESSES

This information bulletin specifies the amount of each exemption allowed for the purposes of calculating the premium for Québec's public prescription drug insurance plan for 2015.

In addition, it clarifies aspects of the assistance program for seniors to partially offset a municipal tax increase pursuant to a new assessment roll, and announces changes to certain other tax measures, such as the refundable tax credits aimed at encouraging the creation of new financial services corporations.

Moreover, it announces that responsibility for recognizing certain eligible public research centres for the purposes of the refundable tax credit for university R&D will be transferred to the Ministère de l'Économie, de l'Innovation et des Exportations as of July 1, 2016.

Lastly, it sets forth the position of the Ministère des Finances on certain measures announced by the federal government.

For information concerning the matters dealt with in this information bulletin, contact the Secteur du droit fiscal et des politiques locales et autochtones at 418 691-2236.

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1. ADJUSTMENT OF THE EXEMPTION THRESHOLDS FOR THE QUÉBEC PUBLIC PRESCRIPTION DRUG INSURANCE PLAN

The basic prescription drug insurance plan established by the Québec government guarantees all Quebecers fair access to the drugs that their state of health requires. The protection offered by the plan is assumed either by the Régie de l'assurance maladie du Québec as the administrator of the public prescription drug insurance plan or by insurers in group insurance or the administrators of private-sector benefit plans.

As a general rule, the Régie de l'assurance maladie du Québec assumes the coverage of individuals who are not obliged to adhere to a group insurance contract, an individual insurance contract concluded on the basis of one or more distinctive characteristics of group insurance[1] or an employee benefit plan applicable to a determined group of persons and the coverage of individuals whom no one is obliged to cover.

Adults registered with the Régie de l'assurance maladie du Québec are usually required to contribute to the payment of the cost of pharmaceutical services and drugs supplied to them each time a prescription is filled or renewed. The contribution, which is subject to a maximum amount, consists of a deductible amount[2] and a coinsurance payment.[3]

However, adults whose income consists essentially of social assistance benefits based on an examination of resources, needs or income are exempt from any contribution. The exemption, which targets the most disadvantaged persons, is geared more specifically to persons eligible for a last-resort financial assistance program stipulated in the *Individual and Family Assistance Act*,[4] as well as to persons age 65 or over who receive, pursuant to the *Old Age Security Act*,[5] 94% or more of the maximum amount of monthly guaranteed income supplement determined without taking into account the additional amount granted since July 2011.

As a general rule, adults who are not covered throughout a year by a group insurance contract, an individual insurance contract concluded on the basis of one or more distinctive characteristics of group insurance[6] or an employee benefit plan that is applicable to a determined group of persons must pay for such year a premium to finance the public prescription drug insurance plan. For 2015, the maximum premium payable is $625.50 per adult.

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1 The individual insurance contract must be covered by section 42.2 of the *Act respecting prescription drug insurance* (CQLR, chapter A-29.01).

2 The deductible is the portion of the cost of pharmaceutical services and drugs that a person covered by the plan is fully responsible for during the reference period. Since July 1, 2015, the amount of the deductible is $216 per year, divided into equal monthly parts.

3 The coinsurance is the proportion of the cost of pharmaceutical services and drugs that is charged to the covered person. Since July 1, 2015, the coinsurance proportion is 34%.

4 CQLR, chapter A-13.1.1.

5 R.S.C., 1985, c. O-9.

6 See note 1.

However, most adults who are exempt from contributing to the payment of the cost of pharmaceutical services and drugs provided for them under the public plan are also exempt from paying the premium.

Moreover, to reflect a household's ability to pay, the premium payable by an adult for a year is determined on the basis of family income, from which an exemption amount based on the household's composition is subtracted.[7]

Since the introduction of the public prescription drug insurance plan, the amount of these exemptions has been adjusted annually to protect household purchasing power. In addition, to ensure the progressivity of the premium, two contribution rates are applicable. The first rate[8] applies to the first $5 000 of covered income and the second rate[9] applies to the portion exceeding $5 000.

Accordingly, to maintain the principles underlying the determination of the amount of the premium payable to the public prescription drug insurance plan, the amount of each of the exemptions actually allowed to established the threshold at which a premium becomes payable will be adjusted for 2015.

The following table shows the amount of each of the exemptions that will be allowed for 2015 according to household composition.

TABLE

Amount of the exemptions allowed for the purposes of calculating the premium for the public prescription drug insurance plan for 2015
(dollars)

Household composition	Amount of the exemption
1 adult, no children	15 360
1 adult, 1 child	24 890
1 adult, 2 or more children	28 210
2 adults, no children	24 890
2 adults, 1 child	28 210
2 adults, 2 or more children	31 275

7 The amount that must be applied to reduce family income makes it possible to exempt from payment of the premium adults whose family income is below a certain threshold.

8 For 2015, the first contribution rate is 6.48% in the case of a single person and 3.28% in the case of a person living as a couple.

9 For 2015, the second contribution rate is 9.75% in the case of a single person and 4.89% in the case of a person living as a couple.

2. HARMONIZATION WITH THE REINSTATEMENT OF THE TAX-FREE SAVINGS ACCOUNT ANNUAL CONTRIBUTION LIMIT

On December 7, 2015, the Minister of Finance of Canada issued a news release[10] announcing a proposal to reinstate, as of 2016, the rules applicable before 2015 for determining the tax-free savings account annual contribution limit.

More specifically, it is proposed that, as of January 1, 2016, the tax-free savings account annual contribution limit be returned to the initial amount of $5 000, indexed on the basis of the Consumer Price Index for each year after 2009 and rounded to the nearest $500. Thus, the tax-free savings account annual contribution limit, which had been set at $10 000 for 2015, will be returned to $5 500 for 2016.

For the purposes of Québec's tax system, the tax-free savings account annual contribution limit has always been the same as the annual limit established for the purposes of the federal tax system, in order to ensure Québec taxpayers obtain all the benefits of such an account and to avoid the substantial administration costs that would result from non-harmonization.

Therefore, although it requires no legislative or regulatory amendments, the federal measure pertaining to the reinstatement of the tax-free savings account annual contribution limit[11] will be retained for the purposes of Québec's tax system, in accordance with the principle of substantial harmonization of tax systems in such matters.

3. CLARIFICATIONS CONCERNING THE ASSISTANCE PROGRAM FOR SENIORS TO PARTIALLY OFFSET A MUNICIPAL TAX INCREASE

Budget 2015-2016 announced the implementation, in 2016, of an assistance program for seniors to partially offset a municipal tax increase pursuant to a new assessment roll.

Under the program, seniors who are long-time homeowners may receive a grant to partially offset the municipal taxes payable on their residence following an increase in its value, if the increase significantly exceeds the average increase for certain residential immovables and certain conditions are met.

To simplify the calculation of the amount of the grant to which individuals may be entitled for a year, it was announced that municipalities would indicate, on the tax account sent for a particular fiscal year or on a prescribed form,[12] the amount of the potential grant attributable to the increase in a unit's property value where, pursuant to a new assessment roll applicable to the fiscal year, the increase in the unit's value exceeds the average increase by 7.5%.

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10 DEPARTMENT OF FINANCE OF CANADA, *News Release 2015-086: Government of Canada Announces Tax Cut to Strengthen the Middle Class*, December 7, 2015, www.fin.gc.ca/n15/15-086-eng.asp.

11 Section 9 of Bill C-2, *Act to amend the Income Tax Act*, tabled in the House of Commons on December 9, 2015.

12 The form concerned is entitled *Amount of the Potential Grant to Offset a Municipal Tax Increase* (FM-210.1-V).

Currently, the tax rates that must be taken into account in the calculation of the grant are the general property tax rate and the rate of each of the other special property taxes that are levied, according to the taxable value, throughout the territory of the municipality and that are applicable to entirely residential assessment units consisting of only one dwelling for the first fiscal year to which a given property assessment roll applies.

However, where a municipality resulted from an amalgamation and, under the act or order by which it was constituted, it fixes, in respect of the general property tax, rates that vary according to the territories of the municipalities having ceased to exist following the amalgamation, the rate of the general property tax corresponds, for the territory of a municipality having ceased to exist, to the actual rate of the general property tax applied by the municipality.

The work surrounding the implementation of the assistance program for seniors to partially offset a municipal tax increase nonetheless pointed to the need to amend or change the applicable rules, in order to take certain situations into account.

❑ Municipalities resulting from an amalgamation or reconstituted municipalities

To take better account of the special rules that have surrounded over the past ten years amalgamations of several municipalities and the reconstitution of some of them, the formula for calculating the grant will be amended to also take into consideration the following tax rates:

- the rate of the special tax relating to the repayment of the debts of a municipality having ceased to exist following an amalgamation, that is levied, according to the taxable value, throughout the territory of the municipality having ceased to exist, and that is applicable to entirely residential assessment units consisting of only one dwelling for the first fiscal year to which a given property assessment roll applies;

- the rate of the borough tax that is levied by a borough council of the Ville de Montréal, according to the taxable value, throughout the territory of the borough and that is applicable to entirely residential assessment units consisting of only one dwelling for the first fiscal year to which a given property assessment roll applies;

- the rate of the agglomeration tax levied, according to the taxable value, throughout the territory of a municipality and that is applicable to entirely residential assessment units consisting of only one dwelling for the first fiscal year to which a given property assessment roll applies.

❑ Municipalities having a population of less than 5 000

Every three years, when a new property assessment roll is drawn up, the assessor must equilibrate the roll. This procedure consists in adjusting all or some of the values entered on the assessment roll in force, in order to restore the actual value of property and thus maintain the fairness of the property tax base.

However, in the case of a local municipality having a population of less than 5 000, the assessor is generally dispensed from carrying out an equilibration if the assessment roll in force is the result of an equilibration.

If a new assessment roll is deposited without an equilibration having been carried out, the values on the new roll are the same as those on the previous three-year roll and remain in effect for a second three-year cycle.

It follows that, for the purposes of the assistance program for seniors to partially offset a municipal tax increase, municipalities having deposited a non-equilibrated roll for a three-year cycle including 2016 are unable to determine a potential grant for 2016, there being no difference between the value of residences entered on the assessment roll on the date it is deposited and the value entered on the previous assessment roll, as it exists on the day before that day.

So that inhabitants of these municipalities can take advantage of the assistance program, an administrative easement was announced in the fall by the Ministère des Affaires municipales et de l'Occupation du territoire. The easement authorized municipalities to calculate the amount of the potential grant using their most recent assessment roll resulting from an equilibration and the assessment roll having preceded it.

However, it appears that the assessment roll preceding the most recent assessment roll resulting from an equilibration, which could be used to determine the potential grant, may have been destroyed in many instances. According to the *Recueil des délais de conservation des documents municipaux des MRC*, such a roll may be destroyed two years after having ceased to apply.

Therefore, out of a concern for fairness and standardization, there is reason to confirm that, in the case of municipalities having a population of less than 5 000, the potential grant must be calculated solely in respect of the years subsequent to 2015 covered by a property assessment roll resulting from an equilibration.

❑ Rectories belonging to individuals

Under the *Act respecting municipal taxation*,[13] the main residence belonging to a minister in charge of a place of public worship of a Church constituted as a legal person under the laws of Québec may be exempt, in whole or in part, from municipal or school taxes. However, only one rectory per Church may be exempt.

The exemption concerns the portion of the value of the residence that does not exceed the product obtained by multiplying $340 500[14] by the median proportion of the roll established for the first fiscal year to which the roll applies.

Given the tax exemption already available, the eligibility conditions respecting the assistance program for seniors to partially offset a municipal tax increase will be modified to provide that an entirely residential assessment unit consisting of only one dwelling does not include a rectory that is exempt, in whole or in part, from municipal or school taxes under section 231.1 of the *Act respecting municipal taxation*.

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13 CQLR, chapter F-2.1, s. 231.1.

14 This amount is set by the *Regulation respecting the maximum non-taxable value of certain rectories* (CQLR, chapter F-2.1, r. 7).

4. TRANSFER TO THE MINISTÈRE DE L'ÉCONOMIE, DE L'INNOVATION ET DES EXPORTATIONS OF RESPONSIBILITY FOR RECOGNIZING ELIGIBLE PUBLIC RESEARCH CENTRES AND OTHER RELATED MODIFICATIONS

A taxpayer who operates a business in Canada may obtain a refundable scientific research and experimental development tax credit in respect of R&D when it is conducted on his behalf in Québec by an eligible public research centre or an eligible university entity, among others.

An eligible university entity refers to a Québec university, a prescribed organization or a prescribed university hospital medical research centre.

The tax credit is commonly referred to as the refundable tax credit for university R&D.[15]

Moreover, a refundable tax credit for technological adaptation services is granted to a company that operates a business in Québec and maintains there an establishment related to eligible liaison and transfer services that are carried out on its behalf by a college centre for the transfer of technology (CCTT) or an eligible liaison and transfer centre (LTC).[16]

It is incumbent upon the Ministère des Finances to recognize a centre as an eligible public research centre or an eligible university entity, either as a prescribed organization or a prescribed university hospital medical research centre, for the application of the refundable tax credit for university R&D.

It is also incumbent upon the department to recognize a centre as a CCTT or an LTC for the application of the refundable tax credit for technological adaptation services.

In order to simplify and streamline the administrative procedures that research centres wishing to obtain recognition for the application of the refundable tax credit for university R&D and the refundable tax credit for technological adaptation services must carry out, tax legislation and regulations will be amended.

❑ Transfer to the Ministère de l'Économie, de l'Innovation et des Exportations of responsibility for recognizing eligible public research centres

In the April 21, 2005 Budget Speech, the Ministère des Finances published the criteria governing the recognition of a research centre as an eligible public research centre for the application of the tax credit for university R&D and introduced the obligation for such centres to annually file a declaration certifying that they are complying with all of the eligibility criteria.[17]

Moreover, to be recognized by the Ministère des Finances as an eligible public research centre for the application of the tax credit, a research centre must demonstrate its ability from the standpoint of its human, physical and financial resources to carry out R&D on behalf of businesses.

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15 *Taxation Act* (CQLR, chapter I-3), ss. 1028.8.1 to 1029.8.7.

16 *Taxation Act* (CQLR, chapter I-3), ss. 1029.8.21.17 to 1029.8.21.30.

17 Ministère des Finances du Québec, *Budget 2005-2006, Additional Information on the Budgetary Measures*, April 21, 2005, pages 45-47.

The research centre's own employees must possess the requisite qualifications to conduct R&D that is subcontracted to the research centre, which must have premises and equipment to perform such work in its field of expertise.

Lastly, the research centre's financing must come mainly from public funds.

These eligibility requirements were elaborated in collaboration with the Ministère de l'Économie, de l'Innovation et des Exportations (MEIE), which then makes a recommendation to the Ministère des Finances concerning compliance with the conditions pertaining to human and physical resources and the research centre's expertise. However, it is incumbent upon the Ministère des Finances to ascertain whether a research centre's financing comes primarily from public funds.

The *Act respecting the sectoral parameters of certain fiscal measures*[18] will be amended such that it is entirely incumbent upon the MEIE to recognize a research centre as an eligible public research centre for the application of the refundable tax credit for university R&D, except for a research centre that is recognized by the Ministère de l'Éducation, de l'Enseignement supérieur et de la Recherche (MEESR) as a CCTT.

In this respect, the MEIE will be responsible for applying all of the current eligibility requirements. However, the condition concerning the financing of eligible public research centres will be amended to better reflect changes in the business model of such centres.

This condition will be replaced by the requirement for a research centre to benefit from public funds, for example in the form of grants, in respect of the research projects that it carries out, and for its mission to be that of a public research centre whose research findings are generally accessible to the public.

Furthermore, the obligation for an eligible public research centre to file an annual declaration covering a calendar year and certifying that it has complied with all of the eligibility requirements during the year will be maintained. A research centre recognized by the MEIE must file this declaration with the department no later than the last day of February following the calendar year in question.

The MEIE will publish the list of eligible public research centres that it recognizes.

Consequential amendments will be made to tax legislation and regulations because of the transfer of responsibility to the MEIE. The eligible public research centres listed in the *Regulation respecting the Taxation Act*[19] will be deemed to have been recognized by the MEIE and will be added to the list mentioned previously that the MEIE will publish, except for those recognized as CCTTs.[20]

For greater clarity, the tax legislation and regulations will not be amended as regards the recognition of an eligible university entity as a prescribed organization or a prescribed university hospital medical research centre. Such recognition will continue to be incumbent upon the Ministère des Finances for the application of the refundable tax credit for university R&D.

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18 CQLR, c. P-5.1.

19 *Regulation respecting the Taxation Act* (CQLR, chapter I-3, r. 1), ss. 1029.8.1R1 and 1029.8.1R3.

20 *Regulation respecting the Taxation Act*, s. 1029.8.1R2.

The transfer of responsibility to the MEIE and the attendant legislative and regulatory amendments will come into force on July 1, 2016.

❑ College centre for the transfer of technology

The MEESR is responsible for recognizing a research centre as a CCTT. The department conducts the appropriate verifications on the research centre's expertise and its human and physical resources.[21]

Again with a view to the simplification and regulatory streamlining that underlies the transfer to the MEIE of responsibility for recognizing research centres as eligible public research centres for the application of the refundable tax credit for university R&D, the tax legislation and regulations will be amended such that the recognition of a research centre as a CCTT by the MEESR will be sufficient for the application of the refundable tax credit for university R&D and for the application of the refundable tax credit for technological adaptation services.

More specifically, tax legislation and regulations will be amended such that a research centre recognized by the MEESR as a CCTT will automatically qualify as an eligible public research centre for the application of the refundable tax credit for university R&D and that it will qualify as a CCTT for the application of the refundable tax credit for technological adaptation services.

The CCTTs listed in the *Regulation respecting the Taxation Act*[22] will be deemed to have been recognized accordingly by the MEESR. The list of CCTTs published by the MEESR will be used to apply the two tax credits.

For greater clarity, the tax legislation and regulations will not be amended as regards the recognition of an eligible liaison and transfer centre. Such recognition will continue to be incumbent upon the Ministère des Finances for the application of the refundable tax credit for technological adaptation services.

The legislative and regulatory amendments will come into force on July 1, 2016.

5. CHANGES TO THE REFUNDABLE TAX CREDITS AIMED AT ENCOURAGING THE CREATION OF NEW FINANCIAL SERVICES CORPORATIONS

As part of the March 20, 2012 budget speech, two refundable tax credits were introduced to encourage the creation of new financial services corporations.[23]

A qualified corporation may, for example, claim a refundable tax credit for the hiring of employees. This tax credit represents 24% of the qualified wages that the corporation pays to its eligible employees during a taxation year included in a five-year period of eligibility for the tax credit. However, the tax credit is limited to $24 000 per eligible employee per year.

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21 *General and Vocational Colleges Act* (CQLR, chapter C-29), ss. 17.2 and 25.

22 *Regulation respecting the Taxation Act*, ss. 1029.8.1R2 and 1029.8.21.17R1.

23 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2012-2013 – Additional Information on the Fiscal Measures of the Budget*, March 20, 2012, pp. 42-50.

In addition, a qualified corporation may claim a refundable tax credit representing 32% of the qualified expenditures that it pays during a taxation year included in the five-year period. However, the tax credit is limited to $120 000 per year.[24]

The two tax credits are jointly referred to as the "refundable tax credit for new financial services corporations."

A corporation must file an application containing all the required information with the Minister of Finance before the end of its second fiscal period, but on or before December 31, 2017, to obtain a qualification certificate for the purposes of this refundable tax credit.[25]

In that regard, a corporation must show that all of its activities consist of one or more activities eligible for the purposes of the tax credit. Eligible activities include that of investment fund manager.

In addition, all or substantially all of the services provided by a corporation must be delivered to clients with which it deals at arm's length.

However, in certain circumstances, a corporation acting as an investment fund manager is not acting on behalf of a client with which it deals at arm's length, because of the legal structure used to set up an investment fund. Such a fund is frequently constituted as a trust or limited partnership and the fund manager is often the settlor of the trust or the general partner of the limited partnership.

Accordingly, to faithfully reflect the objective of the tax policy underlying the refundable tax credit for new financial services corporations, the *Act respecting the sectoral parameters of certain fiscal measures* (hereinafter called the "sectoral act") will be amended to allow such a corporation acting as an investment fund manager to qualify for the tax credit in the circumstances described above.

More specifically, the sectoral act will be amended to stipulate that a new financial services corporation is deemed to act on behalf of a client with which it deals at arm's length, in respect of the delivery of services it provides as manager of an investment fund constituted as a trust or limited partnership, where, at no time in the taxation year or part of a taxation year covered by a sectoral document required for the purposes of the tax credit, more than 10% of the securities held by the investment fund belong, individually or jointly, to the corporation, a person or a partnership with which the corporation does not deal at arm's length, with the exception of the trust or limited partnership, as the case may be, in respect of which the corporation acts as manager.

This amendment will apply as of the day following the day of publication of this information bulletin.

For a taxation year that includes the day of publication of this information bulletin, only the part of the year that follows the day of publication may be indicated on a sectoral document required for the purposes of the refundable tax credit for new financial services corporations, with respect to this amendment.

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24 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2014-2015 – Additional Information on the Fiscal Measures of the Budget*, June 4, 2014, p. 41.

25 *Act respecting the sectoral parameters of certain fiscal measures* (CQLR, chapter P-5.1), Schedule E, s. 6.2, fourth para.

However, for the part of the year that precedes the application date of the amendment, the corporation will nevertheless be deemed to act on behalf of a client with which it deals at arm's length, in respect of the delivery of services it provides as manager of an investment fund in the circumstances described above, but only so that it qualifies for the tax credit, since all or substantially all of the services it provides throughout the taxation year must be provided to clients with which it deals at arm's length.

6. CHANGES IN THE TAX ON PUBLIC SERVICES IN RESPECT OF THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRICAL ENERGY

Generally speaking, municipalities levy property taxes on immovables located in their territory. To this end, they produce a property assessment roll by establishing the value of such immovables, which is used for the purposes of calculating the property tax.

However, immovables that are part, in particular, of a system of production, transmission or distribution of electric power (hereinafter referred to as the "electric power system")[26] are not included on the property assessment roll of a municipality and are thus excluded from the normal property tax system. However, the operator of an electric power system is subject to an exception system under which it must pay Revenu Québec the public utilities tax (hereinafter referred to as the "PUT").[27]

Accordingly, a person or a partnership that operates an electric power system during a calendar year must pay for this year no later than March 1 of the year the PUT that is equivalent to the following amounts overall:

- 0.20% of the portion of the net value of the assets that are part of the system (hereinafter referred to as the "NVA") of the operator for its latest fiscal period ending in the preceding calendar year that does not exceed $750 million;
- 0.55% of the portion of the NVA of the operator for its latest fiscal period ending in the preceding calendar year that exceeds $750 million.

Generally speaking, the NVA refers to all of the amounts each of which represents the surplus, as indicated in the operator's financial statements prepared for the given fiscal period, of the cost of immovables that are part of the system (hereinafter referred to as "immovables subject to tax") of the operator and of which it is the owner at the end of the given fiscal period on the accumulated depreciation.[28]

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26 The public utilities tax is also payable in respect of a telecommunications system other than a television, radio or wireless telecommunication system and of a system of gas distribution to Québec consumers.

27 Part VI.4 of the *Taxation Act* (CQLR, chapter I-3).

28 Specific rules apply in the case of property leased by the operator.

The *Taxation Act*[29] stipulates that the immovable subject to tax, in the case of an electric power system, refers to an immovable located in Québec that must not be included on the property assessment roll pursuant to section 68 of the *Act respecting municipal taxation*,[30] or a lot that constitutes the site of such an immovable that is covered by paragraph 7° of section 204 of the Act.

Section 68 of the *Act respecting municipal taxation* is imprecise. Consequently, to dispel an ambiguity concerning the fiscal policy underlying the PUT and thereby facilitate the determination of the immovables subject to tax, this provision will be amended.

Under the existing legislation, the following immovables in particular are immovables subject to tax for the purposes of the PUT payable by the operator of an electric power system:

— a structure that is part of an electric power system and a work that is an accessory of such a system;

— a dam and a power plant and any accessory work of a dam or a power plant;

— thoroughfares, fences or landscape development works if the thoroughfare, the fence or the works are accessories of a structure that is part of an electric power system;

— if they are part of an electric power system, an access shaft, an underground gallery, a reservoir and a work that is an accessory of an access shaft, an underground gallery or a reservoir.[31]

The *Act respecting municipal taxation* will be amended to define what an accessory work of an electric power system or a component of an electric power system will include and, more specifically, what an accessory thoroughfare will include in the context of the PUT payable in respect of such a system.

Accordingly, the following rules will apply despite the other provisions in the *Act respecting municipal taxation*:

— an accessory work of an electric power system or a component[32] of an electric power system will include any work that is built because of the existence of the system or the component whether or not they are physically attached and whether or not it is used for the production, transmission or distribution of electric power or for the operation of the system or the component;[33]

— what is more, an accessory work of an electric power system or a component of an electric power system that is a thoroughfare will include any public or private corridor, regardless of its area, even if it is not used exclusively for the needs of the system or the component.

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29 Section 1175.29

30 CQLR, chapter F-2.1.

31 Despite a structure that is part of a transformer or distributing station, consisting of foundations, exterior walls and a roof, and the land subjacent to the structure being entered on the property assessment roll.

32 For example, a dam or a power plant, a structure that is part of the system, an access shaft, an underground gallery and a reservoir are components of an electric power system.

33 For example, a heliport, a port facility and a fishway built because of the existence of an electric power system or a component of an electric power system would constitute accessory works of the system or the component.

The amendments to the *Act respecting municipal taxation* will apply starting in the 2016 calendar year.

7. INTRODUCTION OF A MEASURE TO AVOID DOUBLE TAXATION WITH RESPECT TO A PAYROLL TAX FOR CERTAIN PUBLIC SECTOR EMPLOYERS

Under the *Act respecting the Régie de l'assurance maladie du Québec*, an employer that is the Québec government or one of its mandataries must pay a contribution to the Health Services Fund, calculated at a rate of 4.26%, in respect of the wages that the employer pays to the employer's employee who reports for work at the employer's establishment in Québec, that the employer is deemed to pay to the employee or that the employer pays in respect of the employee, or to the employer's employee to whom those wages, if the employee is not required to report for work at an establishment of the employer, are paid, deemed to be paid or paid in respect of the employee from such an establishment in Québec.[34]

In this respect, the *Regulation respecting contributions to the Québec Health Insurance Plan* provides that an agent-general, functionary or employee of the Québec government, serving outside Québec and who was a resident of Québec immediately prior to his or her appointment or employment by the Québec government, is deemed to report for work at an establishment of the employer in Québec.[35]

As a result of this presumption, the Québec government or one of its mandataries is required to pay a contribution to the Health Services Fund in respect of the wages paid to employees seconded to its offices outside Québec.

However, certain other governments also levy a payroll tax on the wages paid to employees of the Québec government or one of its mandataries who report for work at an establishment located on their territory.

It follows that, in respect of the wages paid to its employees seconded to work at an office located outside Québec, the Québec government or one of its mandataries may be required to pay, in addition to a contribution to the Health Services Fund, a payroll tax under a statute of another government. For example, this double taxation occurs in respect of the wages paid to employees seconded to the Bureau du Québec à Toronto, which are taken into account in the calculation of the Ontario health tax.

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34 CQLR, chapter R-5, s. 34.

35 CQLR, chapter R-5, r. 1, s. 4.

Accordingly, to avoid double taxation, the *Act respecting the Régie de l'assurance maladie du Québec* will therefore be amended to provide that, in respect of the wages that it pays in a particular year to its employee who is deemed to report for work at an establishment in Québec further to the application of the *Regulation respecting contributions to the Québec Health Insurance Plan* (hereinafter called "seconded employee") and in respect of the wages that it is deemed to pay to the seconded employee or that it pays in respect of the seconded employee in the year, an employer that is the Québec government or one of its mandataries will be deemed to have paid, in regard to the year, an excess contribution to the Health Services Fund equal to the lower of the following amounts:

— the payroll tax paid for the year, under a statute of another government, in respect of the wages that the employer paid to the seconded employee, that the employer is deemed to have paid to the seconded employee or that the employer paid in respect of the seconded employee;

— the contribution payable for the year to the Health Services Fund in respect of the wages that the employer paid to the seconded employee, that the employer is deemed to have paid to the seconded employee or that the employer paid in respect of the seconded employee.

An employer that is deemed to have paid such an excess contribution to the Health Services Fund for a particular year may obtain a refund thereof upon application to the Minister in the four years following the end of the year for which it is deemed to have paid the excess contribution. The application must be made in writing and be accompanied by the documents and information allowing the Minister to determine the excess amount.

This amendment will apply as of 2015.

8. CLARIFICATION RELATING TO HARMONIZATION WITH CERTAIN MEASURES CONTAINED IN THE *ECONOMIC ACTION PLAN 2014 ACT, NO. 2*

On December 16, 2014, Bill C-43, entitled *A second Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures* (hereinafter called the "Second Act"), received assent.[36]

In addition to giving effect to the amendments respecting the taxation of trusts and estates proposed in the federal budget of February 11, 2014,[37] the Second Act implements other amendments to the federal tax legislation reflecting the objectives of the measures announced in the 2014 federal budget, such as that of improving the fairness and neutrality of the rules pertaining to the taxation of trusts and their beneficiaries.

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36 S.C. 2014, c. 39.

37 DEPARTMENT OF FINANCE CANADA, *Economic Action Plan 2014 – The Road to Balance: Creating Jobs and Opportunities*, February 11, 2014, Annex 2, "Tax Measures: Supplementary Information, Notices of Ways and Means Motions and Draft Amendments to Various GST/HST Regulations", pp. 311-419.

Québec's position on the Second Act amendments to the federal tax legislation and regulations was made public with the tabling of the June 4, 2014 budget speech[38] and with the publication of Information Bulletin 2015-4 on June 18, 2015.[39] Since the Ministère des Finances had already made known its position on the amendments respecting the taxation of trusts and estates in conjunction with the June 4, 2014 budget, Information Bulletin 2015-4 did not state that Québec's tax legislation would be harmonized with the federal tax legislation regarding the other amendments pertaining to the taxation of trusts and their beneficiaries. This would appear to create some uncertainty about the intention of the Ministère des Finances.

Accordingly, it is appropriate to clarify that Québec's tax legislation will be amended to incorporate, with adaptations on the basis of their general principles, the measures relating to the:

— determination of the amount to be included in a taxpayer's income as a payment out of the taxpayer's NISA Fund (2);[40]

— non-application of the deemed residence rule to a non-resident trust for qualification as a "qualified disability trust" (23(2));

— rules pertaining to the determination of the amount a trust may deduct in computing its income, up to the limit applicable to the portion of its income that may be designated by the trust and that is deemed not to have been paid or not to have become payable to a beneficiary, and to the trust income deemed to have become payable to a beneficiary (26(1), (3), (5), (6) in part and (7));

— capital gains exemption that may be claimed by a trust on the death of the spouse or common-law partner who is the beneficiary of the trust (30(16));

— joint and several liability of the spousal trust or a similar trust and the beneficiary thereof, respecting the portion of income tax payable by the beneficiary of the trust (57).

Moreover, it is important to clarify that Québec's tax legislation will be amended to incorporate, with adaptations on the basis of its general principles, the amendment to the definition of the term "child" for the purposes of the rules pertaining to intergenerational rollovers (13(13)).

The amendments to Québec's tax system will be applicable on the same dates as those retained for the purposes of the federal measures with which they are harmonized.

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38 MINISTÈRE DES FINANCES DU QUÉBEC, *Budget 2014-2015 – Additional Information on the Fiscal Measures of the Budget*, June 4, 2014, pp. 81-83.

39 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2015-4*, June 18, 2015, pp. 10-11.

40 Such references in parentheses correspond to the related sections of the Second Act.